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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/723,080

11/26/2003

Federico Loeffler-Lenz

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EXAMINER

BUTLER, PATRICK

ART UNIT

PAPER NUMBER

1732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/723,080

Applicant(s)

LOEFFLER-LENZ, FEDERICO

Examiner

Patrick Butler

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The Applicant's Amendments and Accompanying Remarks, filed 07 November 2006, have been entered and have been carefully considered. Claims 23-33 are new, Claims 16, 17, and 19 are amended, Claims 1-15 are canceled, and Claims 16-33 are pending.

Despite these advances, the invention as currently claimed is not found to be patentable for reasons herein below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17-19 and 21-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 17, lines 6 and 7 and Claim 25, lines 8 and 9 recites, "to completely fill the space between said annular flanges and said longitudinal flanges." Claim 29, lines 11 and 12, recites, "to completely fill the space between said annular flanges, said longitudinal flanges and said spacer members." These flanges extend internally and externally, placing the polymer-aggregate concrete on both sides of the form. However, Applicant's Specification

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appears to teach that the concrete is only on the "outer surface" (see fig. 2 and page 9, lines 9-11). Thus, filling the space between the flanges is new matter to the extent that the space includes volume on the internal side of the form. Claims 18, 19, 21-24, and 26-33 are rejected via their dependency.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19, 22, 24, and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 requires planing using spacer members that extend beyond the annular and longitudinal flanges, yet Claim 19 depends from Claim 17 and contradicts Claim 17's planing limitation, which requires planing using the flanges. Claims 22, 24, and 28 are rejected via their dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trimble (US Patent No. 3,729,165) in view of Tran et al. (US Patent No. 5,464,886).

With respect to Claim 16, Trimble teaches a method of forming a cavity within a concrete structure comprising the steps of providing a plurality of section members

comprising a flexible mold skeleton member 28 with a smooth-walled exterior surface, joining said section members to each other to create a three dimensional tubular form (see Fig. 3, specifically below line intersected by 4 on both sides), pouring concrete onto said form, allowing said concrete to cure, and disassembling and removing said section members (see Abstract) such that a smooth-walled tubular cavity is present within said concrete structure (see Fig. 3, specifically below line intersected by 4 on both sides).

Trimble does not teach utilizing a polymer-aggregate concrete panel member within the plurality of section members.

Tran et al. teach applying a polymer concrete on exterior surfaces of metal structures (see Abstract). The concrete has filler up to 200 mesh size (aggregate) (see col. 4, lines 53-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Tran's polymer concrete coating to the exterior surface of the form of Trimble in order to protect the metal (see Tran, col. 3, lines 12-15). The section members would be rigid and the concrete panel members would impart rigidity to said flexible mold skeleton given the presence of the concrete coating at least to the extent that the final section members would be rigid relative to the rigidity of the flexible mold skeleton before the coating.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trimble (US Patent No. 3,729,165) in view of Tran et al. (US Patent No. 5,464,886) as applied to claims 16 above, and further in view of Lake (US Patent No. 1,552,064).

With respect to Claim 20, Trimble in view of Tran teaches molding concrete with section members as previously described.

Trimble further does not expressly teach internally pressurizing the form.

Lake teaches making a concrete form and internally pressurizing the internal form (see page 1 of text, lines 30-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lake's pressurizing internal core with the method of molding concrete as taught by Trimble in order to do away with all trapped air and uncombined moisture as well as provide uniform density and homogeneous texture (see Lake, page 1 of text, lines 30-47).

Response to Arguments

Applicant's arguments filed 07 November 2006 have been fully considered but they are not persuasive.

Applicant argues with respect to the 35 USC 103 rejections. Applicant's arguments appear to be on the grounds that:

1) Trimble in view of Tran does not make obvious having a rigid member because application of the polymer aggregate concrete material to a surface would not impart rigidity, as polymer-aggregate in thin coating layers is not inherently rigid.

2) New limitations in Claims 17 and 19 and in new Claims are not taught by the applied prior art.

The Applicant's arguments are addressed as follows:

1) The arguments of counsel cannot take the place of evidence in the record.

1) The section members would be rigid and the concrete panel members would impart rigidity to said flexible mold skeleton given the presence of the concrete coating at least to the extent that the final section members would be rigid relative to the rigidity of the flexible mold skeleton before the coating.

2) Applicant's arguments with respect to Claims 17 and 19 have been fully considered and are persuasive. The 35 USC 103 rejections of Claims 17 and 19 have been withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-

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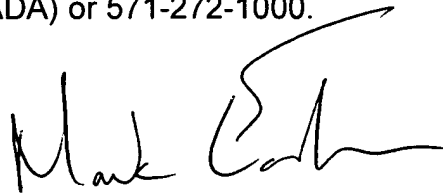
8517. The examiner can normally be reached on Mo.-Th. 7:30 a.m. - 5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patrick Butler
Assistant Examiner
Art Unit 1732



MARK EASHOO, PH.D
PRIMARY EXAMINER

03 / Feb / 07